



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



ZONING MAP CHANGE REPORT

Meeting Date: May 4, 2015

Table A. Summary			
Application Summary			
Case Number	Z1400027	Jurisdiction	City
Applicant	Claudia Cooper, 5 Senses, LLC	Submittal Date	September 22, 2014
Reference Name	Guglhupf Parking Expansion	Site Acreage	0.40
Location	2706 Durham Chapel Hill Boulevard, rear portion of lot fronting on Francis Street between Sarah Avenue and Lexington Street		
PIN(s)	0810-08-99-9569		
Request			
Proposed Zoning	Commercial General with a development plan (CG(D))	Proposal	Vehicle parking
Site Characteristics			
Development Tier	Urban Tier		
Land Use Designation	Medium Density Residential (6-12 DU/Ac.)		
Existing Zoning	Residential Suburban – 8 (RS-8)		
Existing Use	Undeveloped		
Overlay	-P (Tuscaloosa-Lakewood Neighborhood Protection Overlay)	Drainage Basin	Jordan Lake
River Basin	Cape Fear	Stream Basin	Third Fork Creek
Determination/Recommendation/Comments			
Staff	Staff determines that, should the plan amendment be approved, this request would be consistent with the <i>Comprehensive Plan</i> and applicable policies and ordinances.		
Planning Commission	Approval, 12-0 on March 10, 2015. The Planning Commission finds that the ordinance request is not consistent with the adopted <i>Comprehensive Plan</i> . However, should the plan amendment be approved, the request would be consistent with the <i>Comprehensive Plan</i> . The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.		
DOST	No comments		
BPAC	See Attachment 7		

A. Summary

This is a request to change the zoning designation of a 0.40-acre site (portion of a 1.40-acre parcel) to accommodate vehicle parking for the retail use on the remaining one acre of the parcel. The site is located at 2706 Durham Chapel Hill Boulevard, on the rear portion of the lot fronting on Francis Street between Sarah Avenue and Lexington Street (see Attachment 1, Context Map). This site is designated as Medium Density Residential (6-12 DU/Ac.) on the future land use map of the Comprehensive Plan. A plan amendment, case A1400007, has been requested to change this site to Commercial. Should the plan amendment be approved this request would be consistent with the Comprehensive Plan and applicable policies and ordinances.

Appendix A provides supporting information.

B. Site History

A zoning map change application (case Z05-29) was submitted for this site in 2005 and requested CG(D) for the entirety of the 1.40 acre parcel. The proposed use associated with this application was for an addition of 2,000 square feet of commercial and 1,600 square feet of office; for a total gross floor area of 15,080 (including the existing building). A plan amendment related to this zoning case (A05-14) was denied by PC on August 9, 2005 12-0. The zoning case was heard before Planning Commission on January 10, 2006; the case was continued. The applicant subsequently withdrew the application on February 6, 2006 due to neighborhood opposition.

On April 21, 2008 the Tuscaloosa-Lakewood Neighborhood Protection Overlay (TLNPO) was adopted (case Z06-46) after an approximate two-year process of outreach and coordination. The TLNPO was applied for by the Tuscaloosa-Lakewood Neighborhood Association and through JCCPC direction the Planning Department facilitated the requirements. The purpose of the TLNPO is to establish additional standards to ensure that new development protects and preserves the established character of the neighborhood.

C. Review Requirements

Planning staff has performed a sufficiency review for this Zoning Map Change request (reference UDO Sec. 3.2.4, Application Requirements [general] and 3.5.5, Application Requirements [for a Zoning Map Change]). This staff report presents the staff findings per Sec. 3.5.8, Action by the Planning Director, on the request's consistency with the Unified Development Ordinance and applicable adopted plans.

This review is based primarily on compliance with any applicable laws, plans, or adopted policies of the City Council. Any issues or concerns raised in this report are based on best professional planning practice unless they have a basis in adopted plans, policies, and/or laws.

D. Unified Development Ordinance (UDO) Compliance

This request is consistent with the requirements of the Unified Development Ordinance. The associated development plan (see Appendix A, Attachment 4, Development Plan reduction) provides the required elements for zoning map change requests in the CG(D) district (Sec. 3.5.6.D, Sec. 4.6.5, and Sec. 6.10.1.C) and Tuscaloosa-Lakewood Neighborhood Protection Overlay (Sec. 4.6.5) (see Table D3 in Appendix D in this report).

Pursuant to Section 3.5.6.D.10, additional approvals can be sought through the development plan process. This application is requesting that a fence exceeding four feet in height be permitted in the street yard. Typically, a fence greater than four feet in height would require approval through the Board of Adjustment of a Minor Special Use Permit. The details supporting this request such as the location of the fence and the fence details have been committed to on the development plan (see Attachment 4, Development Plan). Generally, the applicant is proposing a decorative six-foot high wood board fence along Francis Street.

In addition, commitments in excess of UDO requirements have been made (see Appendix D for supporting information):

Text Commitments. Text commitments are proffers that commit to requirements in excess of ordinance standards. Text commitments have been proffered to prohibit buildings, preserve trees, and describe permitted improvements on the site.

Graphic Commitments. Graphic commitments include the general location of the site access point, the parking area envelope, location of specimen trees and tree preservation areas, and location of a fence and fence detailing.

Design Commitments. Design Commitments are required of zoning requests that include a development plan for nonresidential projects. This request includes commitments that specify the committed design elements proposed for the site.

Determination. If the requested CG(D) zoning district is approved, this request would not allow any building square footage; rather would allow development of the site to accommodate a parking area and associated improvements.

Additional Approval Requested. In lieu of a Minor Special Use Permit, the applicant is seeking approval of a fence greater than four feet in height in the street yard along Francis Street by including the required details on the development plan. The applicant shows a 6-foot high wood-board fence in the Francis Street street yard along with the fence detailing sufficient to satisfy these requirements.

E. Adopted Plans

A zoning map change request must be consistent with the *Comprehensive Plan*. As such, other adopted plans have been included by reference in this document. Table E, Adopted Plans, in Appendix E identifies the applicable policies of the *Comprehensive Plan* and other adopted plans included by reference.

Determination. The requested CG(D) zoning district would be consistent with the Future Land Use Map of the *Comprehensive Plan*, should the plan amendment (case A1400007) be approved; thus, designating the site as Commercial.

There are no conditions from adopted plans that encumber this site.

F. Site Conditions and Context

Site Conditions. This request is for a 0.40-acre portion of a parcel at 2706 Durham Chapel Hill Boulevard; the northwest portion of the 1.4-acre parcel and contains clusters of specimen trees in the western portion of the site and along the north and south boundary. The central portion of the site an abandoned gravel parking area.

Area Characteristics. This site is located in the Urban Tier and would be developed with access from the remnant portion of the site which has frontage on Durham Chapel Hill Boulevard. The area is characterized by strip commercial development along a major thoroughfare with residential neighborhoods behind the strip of commercial uses on each side of the road. The commercial uses, which cater to automobile traffic, include convenience stores with gasoline sales, restaurants with and without drive-up windows, banks, furniture stores, specialty shops, retail and auto rentals and sales. Zoning districts include Residential Suburban – 8 (RS-8), Residential Suburban – Multifamily (RS-M), Commercial General (CG) and Commercial General with a development plan (CG(D)).

This site is encumbered by the Tuscaloosa-Lakewood Neighborhood Protection Overlay (TLNPO) (so designated “-P”) which was established to ensure that new development protects and preserves the established character of the neighborhood.

Appendix F provides a summary of the uses and zoning in the more immediate vicinity of the subject site.

Determination. The proposed CG(D) district meets the ordinance requirements in relation to development on the subject site. In addition to meeting the ordinance standards for CG development as well as meeting the TLNPO standards for tree coverage and full-width buffers, the applicant has made commitments to mitigate effects of development on the site, such as preserving trees, screening the proposed nonresidential use from the neighborhood by utilizing a fence, and limiting other improvements permitted on the site.

G. Infrastructure

The impact of the requested change has been evaluated to suggest its potential impact on the transportation system, water and sewer systems, and schools. In each case, the impact of the change is evaluated based upon a change from the most intense development using the existing land use and zoning to the most intense use allowed under the request.

See Appendix G for additional information.

Determination. The proposed CG(D) district is consistent with *Comprehensive Plan* policies regarding the infrastructure impacts of transit, utility, drainage/stormwater, schools and water supply. The proposal is not estimated to change any students generated from the site. Water demand is estimated to be reduced by 310 GPD and vehicle trips per day is estimated to decrease by 20. The existing infrastructure has available capacity to meet these needs.

H. Staff Analysis

Staff determines that, should the plan amendment be approved, this request would be consistent with the *Comprehensive Plan* and applicable polices and ordinances. If the requested CG(D) zoning designation were approved the site could be developed as a parking area.

I. Contacts

Table I. Contacts		
Staff Contact		
Amy Wolff, Senior Planner	Ph: 919-560-4137, ext. 28235	Amy.Wolff@DurhamNC.gov
Applicant Contact		
Agent: Howard Partner, Howard A. Partner Landscape Architecture	Ph: 919-286-6638	stormworks@nc.rr.com

J. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Tuscaloosa-Lakewood Neighborhood Association
- Inter-Neighborhood Council
- Fayetteville Street Planning Group
- Friends of Durham
- Unity in the Community for Progress

K. Summary of Planning Commission Meeting March 10, 2015 (Case Z1400005)

Zoning Map Change Request: RS-8 to CG(D)

Staff Report: Ms. Wolff presented the staff reports.

Public Hearing: Chair Harris opened the public hearing. Three people spoke in favor and one person spoke against. Chair Harris closed the public hearing.

Commission Discussion: Discussion centered on parking problems, fences and buffering, and commercial encroachment into the neighborhood.

Motion: Approve Z1400027. (Miller, Davis 2nd)

Action: Motion carried, 12-0

Findings: The Planning Commission finds that the ordinance request is not consistent with the adopted *Comprehensive Plan*. However, should the plan amendment be approved, the request would be consistent with the *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

L. Supporting Information

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: <ol style="list-style-type: none"> 1. Context Map 2. Future Land Use Map 3. Aerial Photography 4. Development Plan Reduction 5. Application 6. Submittal and Review History 7. BPAC Comments
Appendix B	Site History	N/A
Appendix C	Review Requirements	N/A
Appendix D	Unified Development Ordinance	Table D1: Designation Intent Table D2: District Requirements Table D3: Tuscaloosa-Lakewood NPO Table D4: Project Boundary Buffers Table D5: Summary of Development Plan
Appendix E	Adopted Plans	Table E: Adopted Plans
Appendix F	Site Conditions and Context	Table F: Site Context
Appendix G	Infrastructure	Table G1: Road Impacts Table G2: Transit Impacts Table G3: Utility Impacts Table G4: Drainage/Stormwater Impacts Table G5: School Impacts Table G6: Water Impacts
Appendix H	Staff Analysis	N/A
Appendix I	Contacts	N/A
Appendix J	Notification	N/A

Table K. Supporting Information		
Appendix K	Summary of Planning Commission Meeting	<p>Attachments:</p> <ul style="list-style-type: none"> 8. Planning Commissioner's Written Comments 9. Ordinance Form 10. Consistency Statement

Appendix A: Application Supporting Information

Attachments:

1. Context Map
2. Future Land Use Map
3. Aerial Photography
4. Development Plan Reduction
5. Application
6. Submittal and Review History
7. BPAC Comments

Appendix D: Unified Development Plan Supporting Information

Table D1. UDO Designation Intent	
CG	Commercial General – the CG district is established to provide for a wide variety of commercial activities of varying scales that are designed to be served by major thoroughfares; therefore, should be convenient to automotive traffic and maintain safe traffic flows. While CG is a commercial district, other uses such as residential and office may also be allowed. Some of the uses allowed in this district include hotels, self-service storage, car washes, and vehicle sales.
D	Development Plan – the letter “D” following a zoning district indicates that a development plan has been included with a zoning map change request. This designation may be added to any zoning map change request to signify that a conceptual representation of the proposed site has been submitted that indicates how the proposed development could meet ordinance standards. Any significant change to the development plan would require a new zoning petition.
-P	Neighborhood Protection Overlay – The purpose of the Neighborhood Protection Overlay (-P) is to protect and preserve the established character of existing neighborhoods by limiting the flexibility of underlying base districts in order to more effectively match the density, intensity or established character of an existing area. The overlay may also be used to establish specific design guidelines that are more detailed than the standards of this Ordinance for use during review of development within the overlay.

Table D2. District Requirements – CG			
	Code Provision	Required	Development
Minimum Site Area (square feet)	6.10.1.C	20,000	17,439*
Minimum Lot Width (feet)	6.10.1.C	100	240*
Maximum Street Yard (feet)	6.10.1.C	15	N/A**
Minimum Side Yard (feet)	6.10.1.C	15	N/A**
Minimum Rear Yard (feet)	6.10.1.C	25	N/A**
Maximum Height (feet)	6.10.1.C	50	N/A**

*Although the “subject site” of this zoning map change request is 17,439 square feet, it will be used accessory to the remainder of the parcel; which, in total is 60,984 square feet.

**No buildings or structures are proposed per text commitment #1.

Table D3. Tuscaloosa-Lakewood Neighborhood Protection Overlay			
Resource Feature	UDO Provision	Required	Committed
Tree Coverage	4.6.5.C.1b	3% (0.01 acres)	19.9% (0.8 acres) (preservation)
Project Boundary Buffers	4.6.5.F.1	No buffer reductions otherwise permitted in UDO 9.4.5C	No buffer reductions depicted (see Table D4 below)

Table D4. Project Boundary Buffers			
Cardinal Direction	Adjacent Zone	Required Opacity	Proposed Opacity
North	RS-8	0.6/0.8	0.8 (22.5 feet)
East	CG(D)	0.2/0.4	0.4 (15 feet)
South	CG	0.2/0.4	0.4 (15 feet)
West	RS-8	0.6/0.8	0.6 (20 feet)

Table D5. Summary of Development Plan		
Components	Description	Plan Sheet
Required Information	Intensity/Density. 0 square feet maximum floor area	3
	Building/Parking Envelope. A parking area envelope has been appropriately identified.	3
	Project Boundary Buffers have been shown.	3
	Stream Crossing. None shown.	N/A
	Access Points. One (1) site access points has been identified.	3
	Dedications and Reservations. None.	N/A
	Impervious Area. 52% (0.21 acres)	3

Table D5. Summary of Development Plan		
	Environmental Features. None have been identified.	N/A
	Areas for Preservation. None.	N/A
	Tree Coverage. 19.9% (0.08 acres).	3
Graphic Commitments	<ol style="list-style-type: none"> 1. Location of one site access point. 2. Location of parking envelope. 3. Location of specimen trees and tree preservation areas. 4. Location of fence and fence detailing. 	3
Text Commitments	<ol style="list-style-type: none"> 1. No buildings of any type shall be constructed on the project site. 2. Specifically designated trees, as shown on Sheet 3, Proposed Conditions, of the development plan, (and identified by type, dashed root protection zone circles, and trunk diameter in inches), shall not be cut down or removed, and are to remain in place. These designated trees include both trees with sufficient and insufficient root protection zone areas, as defined by the Durham Unified Development Ordinance. While the ultimate longevity of these designated trees cannot be committed to, this text commitment expressly protect the specifically designated trees from removal or intentional damage, as long as each is alive, in healthy condition, and does not present a safety hazard to the public, as verified by site inspection and confirmed by a sealed letter from a North Carolina registered Landscape Architect, delivered by certified mail to the Durham City/County Planning Department, prior to tree removal. 3. Except for landscape trees and shrubs, the only site improvements to be constructed or installed on the project site shall be wood fences, parking lot light poles and fixtures, pavement, wheel stops, and any required stormwater facility or facilities. 4. In addition to vegetation, a decorative six foot high wood board fence, as shown as a graphic commitment on the development plan, shall be constructed within the Francis Street yard 22.5-foot project boundary buffer, between four feet and 18.5 feet from the Francis Street right-of-way property line, located to minimize or avoid removal of existing established trees within the buffer, and with approved buffer shrubs and trees to be planted on each side of the fence. 5. Required directional and/or full cut-off light poles and fixtures shall be limited in height to a maximum of 18 feet. 	Cover
SIA Commitments	None Provided.	N/A
Design Commitments	The proposed design is limited entirely to parking lot pavement, parking lot light poles and fixtures, wheel stops, buffer and parking	Cover

Table D5. Summary of Development Plan		
	<p>lot landscape shrubs and trees, and a decorative wood board fence. The parking lot will connect directly to the existing west side parking lot of the 2706 Durham Chapel Hill Boulevard commercial building. Following Policy 4.1.1i, Parking Standards, of the Durham Comprehensive Plan, the parking is at the side and rear of the building, avoiding the creation of large featureless expanses of surface parking.</p> <p>To provide a transition to the off-site residential development along Frances Street, to the north, a full width, 22.5 foot buffer, will be developed on the north side of the parking area, and a 20 foot width buffer on the west side of the parking area, each buffer preserving existing mature trees. An additional 15 foot width buffer along the adjacent and currently un-buffered south property line will be developed adjacent to the Refectory Café parking lot. In addition to required vegetation, a decorative wood fence will be constructed within the north side buffer along the Frances Street right-of-way. Finally, parking light poles will be limited to a maximum height of 18 feet.</p> <p>The overall effect of the new improvements will be very similar to the look of the existing undeveloped wooded lot, as seen from the residential areas along Francis Street and Lexington Street to the east, north, and west. There will be additional screening vegetation and new fencing so that the parking and activities associated with the existing commercial building will not be apparent from the nearby residential areas.</p>	

Appendix E: Adopted Plans Supporting Information

Table E. Adopted Plans	
<i>Comprehensive Plan</i>	
Policy	Requirement
Future Land Use Map	Medium Density Residential (6-12 DU/Ac.): Land used primarily for residential uses. Urban Tier: Generally, land developed with small lot sizes in traditional grid patterns and differing uses in proximity to one another with access to urban services and provides opportunities for infill and redevelopment.
2.2.3a	Urban Tier Development Focus. Ensure that new development enhances the street level experience by requiring that development within the Urban Tier have an urban form with small lot sized and proximity of uses.
2.2.3b	Urban Tier Land Uses: Land uses that shall be allowed include Recreation and Open Space, Residential, Institutional, Commercial, Office, and Industrial.
2.2.3d	Urban Tier Commercial Development: discourage auto-oriented commercial “strip” development and instead encourage pedestrian-oriented “nodes” and, pedestrian friendly “linear” corridors of commercial development and infill.

Table E. Adopted Plans	
2.2.3e	<p>Urban Tier Spacing of Commercial Nodes: Use the following standards when evaluation requests for new commercial development:</p> <ul style="list-style-type: none"> i. Separate distinct nodes of commercial development by a distance of at least one-half mile; ii. Cluster commercial uses at intersections of thoroughfares; and iii. Restrict new, isolated, mid-block commercial uses, unless compatible with surrounding uses.
2.3.1a	<p>Contiguous Development: Support orderly development patterns that take advantage of the existing urban services, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development.</p>
2.3.2a	<p>Infrastructure Capacity. Consider the impacts to the existing capacities of the transportation, water, and sewer systems, and other public facilities and services. Measure from the potential maximum impact of current policy or regulation to the potential maximum impact of the proposed change in policy or regulation.</p>
8.1.2i	<p>Transportation Level of Service Maintenance: Not recommend approval for any zoning map change which would result in the average daily trips exceeding 110% of the adopted level of service standards for any adjacent road, unless the impact on the adjacent roads is mitigated.</p>
8.1.4c and d	<p>Development Review and the Adopted Bicycle Plans: Review development proposals in relation to the 2006 Comprehensive Durham Bicycle Transportation Plan and the Bicycle Component of the most recent adopted Long Range Transportation Plan, and seek dedication or reservation of right-of-way or easements and construction of facilities in conformance with that Plan and Complete Street design standards.</p>
11.1.1a	<p>School Level of Service Standard: The level of service for public school facilities shall be established as a maximum enrollment of 110 percent of the system's maximum permanent building capacity, measured on a system-wide basis for each type of facility.</p>
11.1.1b	<p>Adequate Schools Facilities: Recommend denial of all Zoning Map amendments that proposed to allow an increase in projected student generation over that of the existing zoning that would cause schools of any type to exceed the level of service.</p>

Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Residential	RS-8, RS-M	-P
East	Commercial	CG, CG(D)	N/A
South	Commercial	CG	N/A
West	Vacant	RS-8	-P

Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts		
Durham-Chapel Hill Boulevard is the major road impacted by the proposed zoning change. There are no scheduled NCDOT roadway improvement projects in the area.		
Affected Segments		Durham Chapel Hill Boulevard
Current Roadway Capacity(LOS D) (AADT)		30,800
Latest Traffic Volume (AADT)		14,000
Traffic Generated by Present Designation (average 24 hour)*		20
Traffic Generated by Proposed Designation (average 24 hour)**		0
Impact of Proposed Designation		-20

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2012);

Durham-Chapel Hill Boulevard: 5-lane undivided class II arterial with left-turn lanes

Source of Latest Traffic Volume: 2013 NCDOT Traffic Count Map

*Assumption (Max Use of Existing Zone) – 2 single-family lots

**Assumption (Max Use of Proposed Zoning) – parking

Table G2. Transit Impacts
Transit service is provided within one-quarter mile of the site along Durham Chapel Hill Boulevard via DATA Routes 10, 10A, and 10B. The closest stop is eastbound at 2721 Durham Chapel Hill Boulevard.

Table G3. Utility Impacts
This site is served by City water and sewer.

Table G4. Drainage/Stormwater Impacts
The impacts of any change will be assessed at the time of site plan review. The subject site is of sufficient size and shape to accommodate appropriate stormwater facilities that may be required at this time.

Table G5. School Impacts			
The proposed zoning is not estimated to generate any students; the plan commits to nonresidential uses. This does not a change from the existing zoning. Durham Public Schools serving the site are Lakewood Elementary School, Githens Middle School, and Jordan High School.			
Students	Elementary School	Middle School	High School
Current Building Capacity	16,794	7,760	10,259
Maximum Building Capacity (110% of Building Capacity)	18,473	8,536	11,285
20th Day Attendance (2014-15 School Year)	16,545	7,465	10,074
Committed to Date (October 2011 – September 2014)	68	19	-35
Available Capacity	1,860	1,052	1,246
Potential Students Generated – Current Zoning*	0	0	0
Potential Students Generated – Proposed Zoning**	0	0	0
Impact of Proposed Zoning	0	0	0

*Assumption- (Max Use of Existing Zoning) – 2 single-family lots

**Assumption- (Max Use of Existing Zoning) – no residential identified/not permitted

Table G6. Water Supply Impacts	
This site is not estimated to generate any water usage. This represents a decrease of 310 GPD from the existing zoning district.	
Current Water Supply Capacity	37.00 MGD
Present Usage	27.17 MGD
Approved Zoning Map Changes (October 2011 – September 2014)	0.13 MGD
Available Capacity	9.70 MGD
Estimated Water Demand Under Present Zoning*	310 GPD
Potential Water Demand Under Proposed Zoning**	0 GPD
Potential Impact of Zoning Map Change	-310

Notes: MGD = Million gallons per day

*Assumption- (Max Use of Existing Zoning) – 2 single-family lots

**Assumption- (Max Use of Existing Zoning) – 0 square feet of commercial uses

Appendix K: Summary of Planning Commission Meeting

Attachments:

8. Planning Commissioner's Written Comments
9. Ordinance Form
10. Consistency Statement